

INITIAL STATEMENT OF REASONS
TITLE 13
DIVISION 1, CHAPTER 1
ARTICLE 2.5. DRIVING UNDER THE INFLUENCE PROGRAM

The Department of Motor Vehicles (the department) proposes to amend sections 120.00, 120.01, 120.02, 124.93, and 124.95, and repeal section 120.04 of Article 2.5 of the California Code of Regulations, relating to the Driving Under the Influence (DUI) Program.

Senate Bill 1697 (Chapter 551, Statutes of 2004) eliminates the court's authority to grant probation to a first offender convicted of driving under the influence and restrict the person's driving privilege to driving to/from a driving under the influence program, and to/from work, and while driving during the course of employment. The court will serve notice of the suspension to the person for a period of 6 months and send the department an abstract of the court record.

SB 1697 eliminates the options to persons seeking a restricted license under the Administrative Per Se Law provisions of Vehicle Code section 13353.7, who formerly could choose between a restriction of 3 months, allowing driving only to/from a DUI program, or of 5 months with the additional privilege of driving to/from work and during the course of employment. As revised, the current law allows all persons granted the restricted license to drive to/from the DUI program, to work, and during the course of employment for a period of 5 months.

SB 1697 allows the person to apply to the department for a restricted driver license unless the court expressly has notified the department that the person is too dangerous to be allowed to drive before completion of the DUI program. The restricted license, issued under Vehicle Code section 13352.4, allows the person to drive for a period of 6 months in order to travel to/from a DUI program, to/from work and during the course of employment.

If the person's driving privilege has been suspended under both Vehicle Code section 13352(a)(1) and 13353.3(b)(1), credit for the APS suspension shall be applied towards completion of the 6 month suspension imposed under section 13352(a)(1).

SB 1697 also eliminates the need of a "regulatory clock" to track the time from issuance of a restricted driver license to a "first offender" to the time allocated to complete the required DUI program, and the department's requirement to suspend if the person fails to finish in time. Those provisions are defined in section 120.04 of Article 2.5 of Division 1, Chapter 1 of Title 13. The revised provisions allow the restriction to run indefinitely until the person completes the program unless the program provider notifies the department that the participant is *not* participating in the required activities. Upon notification from a DUI program provider that a person is not participating, the department immediately suspends the person's driving privilege, pursuant to either

Vehicle Code section 13352 or 13352.1, until that person has completed all requirements to reinstate the driving privilege.

Assembly Bill 1353 (Chapter 164, Statutes of 2005) increases the length of the first offender DUI program to nine months if the driver's blood alcohol concentration was .20% or greater.

Assembly Bill 979 (Chapter 646, Statutes of 2005) reduces the mandatory suspension period that a driver convicted of multiple violations of driving under the influence must serve to 12 months before he or she is eligible for a restricted driver license if he or she also:

- Has enrolled in a DUI program of either 18 months or 30 months if suspended under section 13352(a)(3).
- Has completed 12 months of either an 18 month or a 30 month DUI program if revoked under section 13352(a)(4), (5), (6), or (7).

Senate Bill (SB) 1756 (Chapter 692, Statutes of 2006) added Vehicle Code section 13352.1, extending the driver license suspension to ten months if the driver's blood alcohol concentration was .20% or greater, and the court refers the person to a program pursuant to Vehicle Code section 23538(b)(2).

To comply with these bills, the department has revised the Proof of Enrollment Certificate, DL 107, and the Notice of Completion Certificate, DL 101, used to report facts required by existing law and by the new reporting requirements. The dates of the latest revisions will be shown in the regulations.

§120.00. Purchase and Use of Notice of Completion Certificates.

Subsection (a) is amended to update the revision date of the Notice of Completion Certificates, form DL 101 from 6/2003 to 1/2007. This form was updated in January 2007 to delete the preprinted "18 months of 30 months" option. With the passage of Assembly Bill 979 (Chapter 646, Statutes of 2005), a person whose driver license has been revoked for violating driving under the influence (DUI) laws, is now eligible to obtain an Ignition Interlock Device (IID) restriction after completing 12 months of an 18 or 30 month DUI program. The revised form now contains a "Multiple Offender Program" option which will allow writing by hand the number of months completed and the length of the required program.

The department also will accept a report of completion of "18 months of 30 months" when submitted to comply with a requirement based upon a conviction which occurred prior to January 1, 2006.

§120.01. Acquisition and Use of Proof of Enrollment Certificates.

Subsection (a) is amended to reflect the revision date of the Proof of Enrollment Certificate, form DL 107, from 6/2002 of 7/2006.

The revised certificate deletes the “3 Month Restriction” and the “5 Month Restriction” options of persons seeking a restricted license under the Administrative Per Se (APS) Law. Previously, a person holding a commercial driver license automatically was granted a restricted driver license to drive to/from work and during the course of employment. Applying for an additional restriction to attend a DUI program was an option as the APS Law had no program completion requirement. Now, the APS restriction is defined in statute and includes all of the previously permitted types of driving with a term of 5 months.

In response to the legislation, the department revised form DL 107, which now has an all inclusive statement stating:

“The participant is applying for restrictions to drive to/from DUI program, to/from employment and during the course of employment. Admin Per Se restrictions may begin after a mandatory 30 day suspension ends.”

Under various statutes drivers may be ordered to complete First Offender Programs of 3, 4, 6, or 9 months, depending on both the provisions of the sentencing statute and of requirements set by the county where the offense was committed. Because of the variation in sentencing, a blank field was left on the form for the provider to report in accordance with the sentencing.

A field was added to the form to allow reporting of the date a person re-enrolled in the DUI program after being dropped for non-participation in the required activities. Reporting of two “enrollment dates” will facilitate giving credit for the total number of days of satisfactory participation and the completion of a program of, at least, the minimum number of days prescribed by law.

Passage of Senate Bill 1697 (Chapter 551, Statutes of 2004) eliminated the authority of a court to impose a restriction for DUI offenders effective September 20, 2005.

Upon a conviction in court, the court will serve a verbal notice of suspension on the driver and send an abstract of the court record to the department, which may include an instruction not to issue a restricted license. Unless instructed by the court not to issue a restricted license, upon receipt of Proof of Enrollment in a DUI program of the appropriate length, the department will grant a restriction for the term of the suspension or until all requirements have been met for reinstatement, whichever date is later.

§120.02. Lost or Stolen Notice of Completion Certificates or Proof of Enrollment Certificates.

As amended, this section reflects the revision dates of the two certificates identified. The revision date on the Notice of Completion Certificates, form DL 101 has been amended from 6/2003 to 1/2007. Amendments to the form are explained in section 120.00 above.

The revision date on the Proof of Enrollment Certificate, form DL 107 has been amended from 6/2002 to 7/2006. Amendments to the form are explained in section 120.01 above.

§120.04. Certificates Required for First Conviction of Driving Under the Influence.

This section is repealed due to the repeal of Vehicle Code section 13352.4 becoming inoperative on September 20, 2005 and subsequently repealed on January 1, 2006. Under the repealed section 13352.4, a person whom the court had placed on probation for a first offense of driving under the influence was required to submit proof to the department of satisfactory completion of a driving-under-the-influence program within a time period set by the department.

The latest version of Vehicle Code section 13352.4, added by SB 1697, deletes the time period that the department must set for the driver to submit proof of completion. This version requires the department to issue a restricted driver license when a driver has submitted specified documentation. This section puts limitations on driving, requires financial responsibility to be maintained, and calls for an immediate driver license suspension if a driver does not comply with the provisions of this section.

§124.93. Reissuance of California Driver License.

This section is amended to add a reference to Vehicle Code section 13352.1, which was added to the Vehicle Code with the passage of Assembly Bill 1756 (Chapter 692, Statutes of 2005), operative January 1, 2007. Section 13352.1 mandates suspension of the driver license of a person convicted and sentenced under specified provisions of the Vehicle Code for a period of ten months when the driver is required by the court to complete a nine month DUI program, pursuant to Vehicle Code section 23538(b)(2).

Subsection (c) is amended to add a reference to Vehicle Code section 13352.1 and to identify the revision date of the Notice of Completion Certificate, form DL 101 from 6/2003 to 1/2007. Details of the form amendments are explained in section 120.00 above.

§124.95. Restriction Fee.

This section is amended to add a reference to Vehicle Code section 13352.1, which was added to the Vehicle Code with the passage of Assembly Bill 1756 (Chapter 692, Statutes of 2005).